

1 ANTHONY L. PRESS (State Bar No. 125027)
2 BENJAMIN J. FOX (State Bar No. 193374)
3 WENDY J. RAY (State Bar No. 226269)
4 MORRISON & FOERSTER LLP
5 555 West Fifth Street, Suite 3500
6 Los Angeles, California 90013-1024
7 Telephone: 213.892.5200
8 Facsimile: 213.892.5454
9 APress@mofo.com; BFox@mofo.com;
10 WRay@mofo.com

11 Attorneys for Plaintiffs
12 KONAMI DIGITAL ENTERTAINMENT, INC.
13 and KONAMI CORPORATION

14 *(Parties and Counsel Continued on Signature Page)*

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 KONAMI DIGITAL ENTERTAINMENT,
18 INC. and KONAMI CORPORATION,

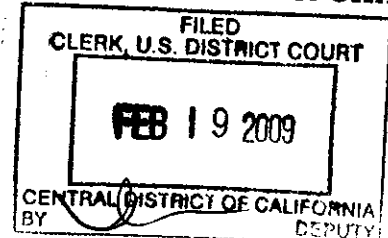
19 Plaintiffs,

20 v.

21 VINTAGE SPORTS CARDS INC.;
22 THE UPPER DECK COMPANY, a
23 California Corporation; THE UPPER
24 DECK COMPANY, a Nevada Corporation;
25 and DOES 3 – 10, inclusive,

26 Defendants.

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Case No. CV 08-06630 VBF PJWx

~~PROPOSED~~ PROTECTIVE
ORDER REGARDING
TREATMENT OF
CONFIDENTIAL
INFORMATION

PJW

1 WHEREAS, the parties in the above-captioned action believe that discovery
2 may involve the disclosure of confidential or proprietary information, including
3 competitively sensitive information the disclosure of which would cause harm to
4 the parties; and

5 WHEREAS, the parties desire to establish a mechanism to protect the
6 disclosure of such information in this action without prejudice to any motion for
7 further relief or modification;

8 The Court, having reviewed the attached Stipulation and [Proposed]
9 Protective Order Regarding Treatment of Confidential Information, and good cause
10 appearing, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure,
11 HEREBY ORDERS THAT:

12 1. The following definitions shall apply to this order:

13 (a) "Producing Party" shall mean any person or entity, regardless of
14 whether a party to this action, who produces material in response to a discovery
15 request made by a party to this action.

16 (b) Material may be designated "Confidential" hereunder if it
17 contains any trade secret within the meaning of California Civil Code
18 section 3426.1 or contains other competitively sensitive information, including but
19 not limited to competitively sensitive pricing or financial information concerning
20 trading card game products, or non-public customer information, that a Designating
21 Party contends may cause harm to its business operations or provide improper
22 advantage to others and which is so designated as "Confidential" under this order.

23 (c) "Qualified Person(s)" shall mean (i) counsel of record or other
24 attorney retained by the parties in connection with this litigation; (ii) any employees
25 of counsel of record that counsel reasonably deems necessary; (iii) the parties
26 hereto, including as to organizations, such officers, directors and employees as the
27 management deems reasonably necessary to prosecute or defend this action;
28

1 (iv) court reporters and videographers herein; and (v) such other persons as may
2 hereafter be qualified to receive "Confidential" material pursuant to order of the
3 Court or the provisions of paragraph 10 hereof.

4 (d) "Designating Party" means a person or entity, regardless of
5 whether a party to this action, who designates information produced in discovery as
6 "Confidential."

7 2. To bring any materials within this protective order, a Producing Party
8 or Designating Party shall designate it as "Confidential." If any party disagrees
9 with the proposed designation of information as "Confidential," that party shall so
10 notify the Producing Party and/or Designating Party in writing. If, after 10 days of
11 such notice, the Producing and/or Designating Party does not agree to remove its
12 designation of confidentiality as to the contested materials the party challenging the
13 designation may, subject to C.D. Cal. Local Rule 37, file a motion with the Court
14 requesting that the Court determine that such materials are not covered by the scope
15 of this protective order. The party designating the contested materials as
16 "Confidential" shall bear the burden of proving that those materials should be
17 treated as "Confidential" under this protective order. If the party challenging a
18 designation of certain materials as "Confidential" brings such a motion, the
19 materials in dispute shall be treated as "Confidential" hereunder until a final ruling
20 by the Court. The parties are expected to limit designations to genuinely
21 confidential information deserving private treatment. The parties shall be mindful
22 of the burden placed on themselves and the Court in handling "Confidential"
23 material.

24 3. To designate any documents or things produced after the date hereof as
25 "Confidential," the Producing Party or Designating Party may mark all or part of
26 the material with the legend "Confidential." Such designation shall be made by the
27 Producing Party at the time of the production, and by any Designating Party within
28 30 days of receipt. To designate any documents or things produced before the date

1 hereof as "Confidential," the Designating Party may send a letter designating such
2 material with specificity to all counsel within 14 days of the entry of this Order.

3 4. To designate deposition testimony as "Confidential," the Producing
4 Party or Designating Party shall identify passages, either on the record or by page
5 number within 14 days of production of the transcript of the deposition. Such
6 passages shall be "Confidential." Other responses to written discovery shall be
7 designated as "Confidential" by so identifying the response as "Confidential" at the
8 time of service. Parallel portions of videotaped depositions designated as
9 "Confidential" shall be "Confidential" as well.

10 5. If any party or non-party produces, in response to discovery requests in
11 the above-captioned action, information qualifying as "Confidential" as to any other
12 party herein, then that other party (the "Designating Party") may designate such
13 information as "Confidential" by letter to all parties herein sent within 14 days of
14 production of the materials to the Designating Party.

15 6. Any documents, deposition testimony or discovery response may be
16 designated as "Highly Confidential – Attorneys' Eyes Only" by the Producing
17 Party or a Designating Party if it contains the confidential information contained in
18 paragraph 1(b) and is so highly sensitive that its disclosure to a party, an officer,
19 director, or employee of a party, or a third party not listed in paragraph 10 would
20 reveal significant business or financial advantages of the Designating Party. To
21 designate any documents or things produced after the date hereof as "Highly
22 Confidential – Attorneys' Eyes Only," the Producing Party or Designating Party
23 may mark all or part of the material with the legend "Highly Confidential –
24 Attorneys' Eyes Only." Such "Highly Confidential – Attorneys' Eyes Only"
25 materials will be treated in accordance with paragraph 7 below.

26 7. Any materials designated as "Highly Confidential – Attorneys' Eyes
27 Only" shall be treated in accordance with the terms of this protective order, except
28 where those terms conflict with this paragraph 7, which provides for a higher level

1 of protection for "Highly Confidential – Attorneys' Eyes Only" materials. The
2 Qualified Persons who may have access to "Highly Confidential – Attorneys' Eyes
3 Only" materials include only (i) counsel for the parties hereto; (ii) any employees of
4 counsel of record that counsel reasonably deems necessary; and (iii) such other
5 persons as may hereafter be qualified to receive "Confidential" material pursuant to
6 order of the Court or the provisions of paragraph 10 hereof. In the event that any
7 question is asked at a deposition that calls for the disclosure of "Highly
8 Confidential – Attorneys' Eyes Only" materials, any party may request that the
9 portion of the deposition transcript relating to such questions be treated as "Highly
10 Confidential – Attorneys' Eyes Only." The entire transcript of the deposition shall
11 be considered "Highly Confidential – Attorneys' Eyes Only" during the designation
12 period. Parallel portions of videotaped depositions designated as "Highly
13 Confidential – Attorneys' Eyes Only" shall be treated as "Highly Confidential –
14 Attorneys' Eyes Only" as well.

15 8. "Confidential" material shall be used only in connection with the
16 litigation of this matter and shall not be used or disclosed except in accordance with
17 this order.

18 9. "Confidential" material, whether in the form of documents, copies
19 thereof, or otherwise, shall be maintained at all times in the possession of counsel
20 for any of the parties, or any successor attorney or law firm for any of the parties, or
21 any expert retained by any party (pursuant to Paragraph 10), and no such
22 information or documents shall be shown to any other person or persons except for
23 Qualified Persons as defined herein. The substance or content of "Confidential"
24 material, as well as all notes and memoranda relating thereto, shall not be disclosed
25 to anyone other than a Qualified Person.

26 10. Experts and consultants employed by counsel of record for the purpose
27 of assisting in the preparation of trial and/or trial of this action may become
28 Qualified Persons and have access to "Confidential" materials related to the specific

1 subject on which they may testify as an expert or on the specific subject(s) on
2 which they are providing expert assistance for trial preparation pursuant to the
3 following procedure: Prior to disclosure of any "Confidential" material to said
4 expert or consultant, the proponent thereof shall obtain a written statement by such
5 proposed expert or consultant setting forth the name of such expert or consultant,
6 his or her present business and residence addresses, and certifying that such
7 proposed expert or consultant has read this Order and will at all times maintain a
8 copy thereof in his or her possession, agrees to comply with its terms and, for the
9 purpose of securing compliance with its terms, irrevocably submits his person to
10 the jurisdiction of this Court. The statement of any such expert or consultant shall
11 be kept by the proponent counsel and a copy thereof shall be sent to all counsel
12 within ten days of the designation of said person as an expert or the giving of
13 testimony, whether by deposition or at trial.

14 11. When documents, briefs, or memoranda containing "Confidential"
15 material are filed with the Court, counsel for the respective parties shall advise the
16 court clerk and comply with such procedures, as the Court allows, to maintain the
17 confidentiality of the materials in question, including filing under seal in
18 accordance with C.D. Cal. Local Rule 79-5.

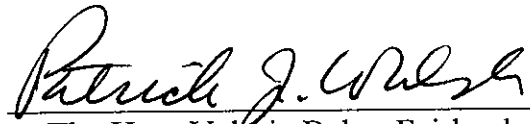
19 12. "Confidential" material may be shown to any deposition witness or
20 interviewed witness without restriction only when that witness is shown as the
21 author or recipient of the information.

22 13. Upon final termination of this action, each party shall either destroy or
23 return to the Designating Party all materials designated "Confidential," including all
24 copies of such materials and all materials substantively containing summaries or
25 information derived therefrom with the exception that counsel may retain in their
26 files an archival copy of all pleadings, motion papers, transcripts, legal memoranda,
27 correspondence (including e-mails) or attorney work product, even if such materials
28 contain "Confidential" material (subject to the restrictions of the order). Any such

1 archival copies that contain or constitute "Confidential" material remain subject to
2 this Protective Order. At the request of any party, the opposing party shall provide
3 written certification of compliance. Receipt of any documentary evidence returned
4 by the non-designating party shall, upon request made concurrently, be
5 acknowledged by the receiving party in writing.

6 IT IS SO ORDERED.

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8 Dated: 2/19/09


The Hon. Valerie Baker Fairbank
United States District Judge

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10
11 PATRICK J. WALSH

12 *Counsel Continued from Caption Page:*

13 Richard K. Howell (State Bar No. 144241)
14 Duke F. Wahlquist (State Bar No. 117722)
15 Bradley A. Chapin (State Bar No. 232885)
16 Rutan & Tucker LLP
611 Anton Boulevard Suite 1400
Costa Mesa, CA 92626-1931
Telephone: (714) 641-5100
Facsimile: (714) 546-9035
RHowell@rutan.com; DWahlquist@rutan.com

17 Attorneys for Defendants The Upper Deck Company,
18 a California corporation, and The Upper Deck Company,
a Nevada corporation

19 John H. Horwitz (State Bar No. 137192)
20 SCHAFFER, LAX, McNAUGHTON & CHEN
515 S. Figueroa St., Suite 1400
21 Los Angeles, California 90071
Tel. (213) 337-1000
22 Fax (213) 337-1010
horwitzj@slmclaw.com

23 Robert D. Coviello (State Bar No. 96370)
24 LAW OFFICE OF ROBERT D. COVIELLO
31831 Camino Capistrano, Suite 201
25 San Juan Capistrano, California 92675
Telephone: (949) 429-7500
26 Facsimile: (949) 429-7505
coviello@coviello-law.com

1 Jeffrey D. Burbach (Admitted *Pro Hac Vice*)
WINSTEAD PC
2 24 Waterway Avenue, Suite 500
The Woodlands, Texas 77380
3 Telephone: (281) 681-5911
Facsimile: (281) 681-5901
4 jburbach@winstead.com
5 Attorneys for Defendant Vintage Sports Cards, Inc.

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MacNeil, Joan

From: cacd_ecfmail@cacd.uscourts.gov
Sent: Thursday, February 12, 2009 5:49 PM
To: ecfnf@cacd.uscourts.gov
Subject: Activity in Case 2:08-cv-06630-VBF-PJW Konami Digital Entertainment, Inc. et al v. Vintage Sports Cards Inc. et al Stipulation for Protective Order

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by Fox, Benjamin on 2/12/2009 at 5:48 PM PST and filed on 2/12/2009

Case Name: Konami Digital Entertainment, Inc. et al v. Vintage Sports Cards Inc. et al

Case Number: 2:08-cv-6630

Filer: Konami Digital Entertainment, Inc.
Konami Corporation

Document Number: 128

Docket Text:

STIPULATION for Protective Order filed by plaintiffs Konami Digital Entertainment, Inc., Konami Corporation. (Attachments: # (1) Proposed Order)(Fox, Benjamin)

2:08-cv-6630 Notice has been electronically mailed to:

Anthony L Press apress@mofo.com

Benjamin J Fox bfox@mofo.com, jmacneil@mofo.com

Bradley A Chapin bchapin@rutan.com

Jeffrey D Burbach jburbach@winstead.com, jlight@winstead.com

John H Horwitz horwitzj@slmclaw.com, John@SLMCLAW.COM

Richard K Howell rhowell@rutan.com

Robert C Shaddox rshaddox@winstead.com

Robert D Coviello Coviello@Coviello-law.com, stephanie.straka@coviello-law.com

Roger F Friedman rfriedman@rutan.com

2/12/2009

2:08-cv-6630 Notice has been delivered by First Class U. S. Mail or by fax to :

Khannan Suntharam
Winstead
1100 JP Morgan Chase Tower 600 Travis Street
Houston, TX 77002

Oren Bitan
Morrison and Foerster
555 West Fifth Street Suite 3500
Los Angeles, CA 90013-1024

The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:\\pracsupla1\pracsup\$\39467\20 - Vintage Sports\E-Filing\Stipulation_re_Proposed_Protective_Order.pdf
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Document description:Proposed Order
Original filename:\\pracsupla1\pracsup\$\39467\20 - Vintage Sports\E-Filing\Proposed_Protective_Order.pdf
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